

General Information Letter: Addition modification for Indiana property tax deducted in the computation of federal adjusted gross income made in computing Indiana taxable income is taken into account in computing base income subject to tax in both Indiana and Illinois.

November 20, 2001

Dear:

This is in response to your letter dated May 24, 2001, in which you questioned the Department's adjustment to your Illinois income tax liability. I apologize for the delay in responding to you. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

I disagree with your conclusion that I should receive a larger refund. Column B on Schedule CR asks for the "Illinois base income taxed by other state." The "Illinois base income" excludes the property tax I paid on my farm land in Indiana because it was taken as an expense on my federal Schedule E. When I figured my Indiana tax, I had to add back the property tax on Indiana Schedule A, line 23. Thus, the amount I entered on line 1 of the Indiana Form IT-40 PNR was \$24,073.51. This amount included the add-back. My "Illinois base income" didn't include the ad-back. This is the reason I wrote \$22,346.32 in Column B and not \$24,073.51.

Response

Section 601(b)(3) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 *et seq.*) allows a resident to claim a credit for taxes paid to another state on income that is subject to tax by that state and by Illinois. That section provides that:

The aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.

"Base income" is the federal adjusted gross income of a resident individual, with certain modifications. See Section 203(a) of the IITA. Federal adjusted gross income is computed without allowing the standard deduction or any itemized deductions. See Section 62 of the Internal Revenue Code. The modifications to federal adjusted gross income in Section 203(a) of the IITA include adding certain items of income taxed by Illinois, but not the federal government, adding back certain expenses allowed as deductions by the federal government but not by Illinois, subtracting items of income taxed by the federal government but not Illinois and subtracting expenses allowed as deductions by Illinois but not by the federal government.

Accordingly, in using "base income" subject to double taxation as the amount used in computing the limitation, the General Assembly intended the limitation to be based only on items of income that are included in both the foreign tax base and Illinois base income and by allowing as deductions only those expenses allowed as deductions in both the foreign state and in Illinois. Because you were not allowed to deduct the \$2,727.19 in property taxes in computing your Indiana adjusted gross income, that deduction is not taken into account in computing base income subject to double taxation. You are therefore entitled to the credit and refund amount determined by the Department, rather than the credit and refund claimed on your return.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax